
SENATE BILL No. 482

DIGEST OF INTRODUCED BILL

Citations Affected: IC 14-8-2; IC 14-22-26.

Synopsis: Possession of exotic animals. Classifies certain animals as "prohibited animals". Provides that a person must have a permit from the department of natural resources to possess a prohibited animal. Requires that a person who possesses a prohibited animal meet certain conditions. Prohibits a person from acquiring or breeding a prohibited animal after July 1, 2007. Establishes a Class A misdemeanor for violations.

Effective: July 1, 2007.

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January 18, 2007, read first time and referred to Committee on Natural Resources.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

SENATE BILL No. 482

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 14-8-2-40.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2007]: **Sec. 40.5. "Circus", for purposes of IC 14-22-26, has the**
4 **meaning set forth in IC 14-22-26-2(1).**

5 SECTION 2. IC 14-8-2-209.5 IS ADDED TO THE INDIANA
6 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2007]: **Sec. 209.5. "Possess", for purposes of**
8 **IC 14-22-26, has the meaning set forth in IC 14-22-26-2(2).**

9 SECTION 3. IC 14-8-2-216.5 IS ADDED TO THE INDIANA
10 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2007]: **Sec. 216.5. "Prohibited animal", for**
12 **purposes of IC 14-22-26, has the meaning set forth in**
13 **IC 14-22-26-2(3).**

14 SECTION 4. IC 14-8-2-320.5 IS ADDED TO THE INDIANA
15 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2007]: **Sec. 320.5. "Wildlife sanctuary", for**
17 **purposes of IC 14-22-26, has the meaning set forth in**

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IC 14-22-26-2(4).

SECTION 5. IC 14-8-2-323 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 323. "Zoological park", for purposes of IC 14-22-26, has the meaning set forth in ~~IC 14-22-26-2~~; **IC 14-22-26-2(5).**

SECTION 6. IC 14-22-26-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. This chapter does not apply to ~~licensed commercial animal dealers~~; **the following:**

- (1) Zoological parks.
- (2) ~~Circuses. or carnivals.~~
- (3) **Licensed or accredited research facilities.**
- (4) **Licensed or accredited educational facilities.**
- (5) **Veterinary hospitals or clinics operated by a licensed veterinarian.**
- (6) **Wildlife sanctuaries.**
- (7) **Rehabilitators who have been issued a state or federal wildlife rehabilitation permit.**
- (8) **Animal control and law enforcement officers acting under the authority of this chapter.**
- (9) **Organizations housing a prohibited animal at the request of the department.**
- (10) **Persons who transport a prohibited animal through Indiana if:**
 - (A) **the transit time through Indiana is less than ninety-six (96) hours;**
 - (B) **the animal is not exhibited in Indiana; and**
 - (C) **the animal is continuously confined in a container that is of sufficient strength to prevent the animal from escaping or coming into contact with the public.**

SECTION 7. IC 14-22-26-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. ~~As used in The~~ **following definitions apply throughout this chapter:**

- (1) **"Circus" means an exhibitor that:**
 - (A) **has any license required by the United States Department of Agriculture under 9 CFR 1; and**
 - (B) **offers performances by animals, clowns, and acrobats for public entertainment.**

The term does not include an exhibitor who presents a prohibited animal to the public as part of a carnival, as part of an exhibition, for educational purposes, or for entertainment purposes, including photography opportunities or other activities where the prohibited animal and a patron

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are in close proximity, whether or not the person is licensed by the United States Department of Agriculture under 9 CFR 1.

(2) "Possess" means to own, harbor, or have custody or control of a prohibited animal.

(3) "Prohibited animal" means the following:

(A) Except for domesticated and feral cats, all species in the family Felidae, including hybrids.

(B) Except for domesticated dogs, all species in the family Canidae, including hybrids.

(C) All species in the family Ursidae (bears).

(D) Venomous reptiles.

(E) Crocodilians.

(F) Constrictor snakes that have the potential to exceed six (6) feet in length.

(G) Komodo dragons, water monitors, and crocodile monitors.

(H) Nonhuman primates.

(I) Kinkajous and coatimundis.

(J) Civet cats, genets, and binturongs.

(K) Elephants.

(L) Hippopotamuses.

(M) Kangaroos.

(N) Rhinoceroses.

(O) Wolverines.

(P) Any other animal classified as a prohibited animal by the department.

(4) "Wildlife sanctuary" means a nonprofit organization that:

(A) operates a place of refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced animals are provided care for the animal's lifetime;

(B) does not conduct any commercial activity with respect to prohibited animals;

(C) does not sell, trade, auction, lease, or loan prohibited animals or parts of a prohibited animal;

(D) does not breed prohibited animals;

(E) does not conduct an activity that is not inherent to the prohibited animal's nature; and

(F) does not use the prohibited animal for entertainment purposes.

(5) "Zoological park" means:

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(1) ~~(A)~~ a permanent establishment that is a member of the American Association of Zoological Parks and Aquariums; or
 (2) ~~(B)~~ an agency of local government, open to and administered for the public, to provide education, conservation, and preservation of the earth's fauna.

SECTION 8. IC 14-22-26-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. **(a) Except as provided in this chapter, a person may not possess a prohibited animal.**

(b) The director may adopt rules under IC 4-22-2 to require and issue the following:

- (1) A permit to possess a wild animal protected by statute or rule.
- (2) A permit to possess a wild animal that may be harmful or dangerous to plants or animals. A separate permit is required for each wild animal described in this subdivision.

(3) A permit to possess a prohibited animal if the applicant possessed the prohibited animal on July 1, 2007.

(c) A person who obtains a permit to possess a prohibited animal shall comply with the following requirements:

- (1) The person may not breed a prohibited animal or replace a prohibited animal.
- (2) The person shall notify the department immediately if the prohibited animal escapes.
- (3) The person shall notify the department before moving the prohibited animal or changing addresses.
- (4) The person shall not allow the prohibited animal to come into physical contact with any person other than the person possessing the animal, the designated handler, or a veterinarian administering medical examination, treatment, or care.
- (5) The person may not bring a prohibited animal to any public property or commercial or retail establishment, except to bring the animal to a licensed veterinarian or veterinarian clinic.
- (6) If a prohibited animal has not had a microchip implanted and is sedated during veterinary care for any reason, the person who possesses the animal shall have a veterinarian implant a microchip in the prohibited animal for identification purposes. Not more than thirty (30) days after the microchip is implanted, the person who possesses the animal must provide to the department and the local animal control authority the name of the microchip manufacturer

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and the microchip identification number.

SECTION 9. IC 14-22-26-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. A **wild animal** permit issued under this chapter:

- (1) must be in the form prescribed by the director;
- (2) may not be issued unless the director is satisfied that the permit should be issued;
- (3) has an expiration date fixed by the director; and
- (4) has a fee of ten dollars (\$10).

SECTION 10. IC 14-22-26-4.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 4.5. (a) An applicant for a permit to possess a prohibited animal must submit an application including the following:**

- (1) A one hundred dollar (\$100) fee for each prohibited animal.
- (2) The name, address, and telephone number of the applicant.
- (3) A description of each prohibited animal, including the scientific name, common name, sex, age, color, weight, and any distinguishing marks or coloration that would aid in the identification of the animal.
- (4) A photograph of each prohibited animal.
- (5) The exact location where each prohibited animal is to be kept.
- (6) The name, address, and telephone number of the person from whom the applicant obtained each prohibited animal, if known.
- (7) The microchip manufacturer and microchip identification number, if a microchip has been implanted in the prohibited animal.
- (8) The name, address, and telephone number of the veterinarian who is expected to provide veterinary care to each prohibited animal.
- (9) A statement that does the following:
 - (A) Contains an attestation that the applicant agrees to:
 - (i) comply with the requirements under section 3(c) of this chapter; and
 - (ii) meet any other requirements under this chapter within thirty (30) days after issuance of the permit.
 - (B) Requires the signature of the applicant, under penalty of perjury.

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1 (b) The director may issue a permit to possess a prohibited
2 animal if the director determines that the applicant has met the
3 requirements of subsection (a).

4 (c) A permit to possess a prohibited animal expires one (1) year
5 from the date of issuance.

6 SECTION 11. IC 14-22-26-5 IS AMENDED TO READ AS
7 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) If an emergency
8 exists, the director may summarily suspend a permit issued under this
9 chapter. The director may summarily seize and hold ~~an~~ **a wild or**
10 **prohibited** animal for which a permit is required under this chapter,
11 pending the outcome of the proceedings under this section, if ~~either~~
12 **the director believes that an emergency exists because at least one**
13 **(1)** of the following conditions exist:

14 ~~(1)~~ A permit has not been issued to possess the animal.

15 ~~(2)~~ A permit has been issued to possess the animal, but the
16 director believes that an emergency exists because at least one ~~(1)~~
17 of the following conditions exists:

18 ~~(A)~~ (1) The animal is in a position to harm another animal.

19 ~~(B)~~ (2) The life or health of the animal is in peril.

20 (3) The animal poses a risk to public health or safety.

21 (b) The director shall seize and hold a prohibited animal,
22 pending the outcome of the proceedings under this section, if:

23 (1) the person does not have a permit to possess the
24 prohibited animal; or

25 (2) the person took possession of the prohibited animal after
26 July 1, 2007.

27 ~~(b)~~ (c) After suspending a permit or seizing and holding an animal
28 under subsection (a), the department shall proceed as quickly as
29 feasible to provide the opportunity for completed adjudicative
30 proceedings under IC 4-21.5. The proceedings may result in the
31 revocation, temporary suspension, or modification of the permit.
32 Provision may be made for a final disposition with respect to the wild
33 **or prohibited** animal, including confiscation of the animal. IC 4-21.5
34 provides the exclusive remedy available to a person aggrieved by a
35 determination of the department under this section.

36 ~~(c)~~ (d) The director may contract with experts in the handling of
37 **wild or prohibited** animals for which a permit is required under this
38 chapter to assist the director in seizing and holding an animal under
39 this section. A person who seizes and holds an animal under a contract
40 with the director is not subject to legal action arising from the seizure
41 or holding to the same extent as if the person was an employee of the
42 department.

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(d) (e) The owner of ~~an~~ **a wild or prohibited** animal seized under this section is liable for the costs of seizing and holding the animal and of the proceedings under this section, including a trial, if any.

(f) **A wild or prohibited animal seized under this chapter may not be returned to the person who had possession of the animal before seizure unless:**

(1) **possession of the wild or prohibited animal is not in violation of this section; and**

(2) **the return of the wild or prohibited animal does not pose a risk to public health or safety.**

SECTION 12. IC 14-22-26-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 7. (a) A prohibited animal must be confined within an enclosure of sufficient strength and design to prevent escape and to protect the animal from injury. Any cage or confinement structure must be constructed in a manner that prohibits physical contact with any person other than the person possessing the animal, the designated handler, or a veterinarian administering a medical examination, treatment, or care.**

(b) **An enclosure in which a prohibited animal is held must be maintained as follows:**

(1) **Drinking water must be provided daily in clean containers. Any swimming or wading pool must be cleaned as needed to ensure good water quality. The enclosure must provide adequate drainage of surface water.**

(2) **Food provided must be unspoiled and uncontaminated.**

(3) **Fecal and food waste must be removed from an enclosure daily and stored or disposed of in a manner that prevents noxious odors or pests. Hard floors must be scrubbed and disinfected weekly. Large pens and paddocks with dirt floors must be raked every three (3) days and the waste removed.**

(c) **The department may adopt rules under IC 4-22-2 requiring specific enclosure requirements for any species of prohibited animals.**

SECTION 13. IC 14-22-26-8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 8. A person who knowingly violates this chapter commits a Class A misdemeanor.**

SECTION 14. [EFFECTIVE JULY 1, 2007] (a) **The definitions under IC 14-22-26-2, as amended by this act, apply throughout this SECTION.**

(b) **Notwithstanding IC 14-22-26, as amended by this act, a**

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Class II or Class III permit issued under 312 IAC 9-11 for a prohibited animal expires December 31, 2007. Notwithstanding IC 14-22-26-3, as amended by this act, a person who possesses a prohibited animal must apply for a prohibited animal permit under IC 14-22-26-3, as amended by this act, before September 1, 2007. The department must issue or deny a permit before December 31, 2007, to a person who applies under this subsection to possess a prohibited animal.

(c) Notwithstanding IC 14-22-6-7(c), as added by this act, the department shall adopt rules under IC 4-22-2 before July 1, 2009, that provide specific safety and enclosure requirements for prohibited animal species. The requirements under this SECTION must substantially comply with the following:

(1) For stationary (nontraveling) facilities for a prohibited animal:

(A) The enclosed facility must be surrounded by:

- (i) a perimeter fence, or secondary barrier, at least eight (8) feet in height and a minimum of four (4) feet from the enclosure holding the animal; or
- (ii) other fencing, a building, or other protection of the enclosure where the animal is kept that is sufficient to prevent unauthorized public entry or direct physical contact between the animal and the public.

(B) A cage must be well braced and securely fastened to the floor or in the ground and use metal clamps or braces of sufficient strength for cage construction.

(C) Entrances to the enclosure must have double safety doors, one (1) of which opens only to the inside. When unattended, the doors must remain locked at all times with chains and locks of sufficient strength to prevent the animal from breaking open the door if the animal becomes highly excited.

(D) Enclosures must be constructed with:

- (i) a den, nest box, or other connected housing unit that can be closed off and locked with the animal inside for the safe servicing and cleaning of the open area; or
- (ii) a divided cage with a door between the two (2) compartments.

(E) An outdoor cage must provide adequate shelter from inclement weather conditions and shade from the sun, and provide for the protection and health of the prohibited animal.

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(F) The mesh size or distance between bars must be sufficiently small to prevent the escape of the animal being held.

(G) Restraint by tethering may not be used as a means to hold the animal in captivity.

(2) A prohibited animal must be kept in a cage or be housed in a building in which the strength of the walls and the restraints affixed to all windows, doors, and other means of entry or exit meet the following minimum criteria:

(A) For species in the Canidae family:

(i) a cage must be constructed of and be covered at the top with eleven and one-half (11 1/2) gauge steel chain link or its equivalent, with tension bars and metal clamps to prevent the escape of the animal; or

(ii) in facilities without a top, the sides of the cage must be a minimum of nine (9) feet high with the top three (3) feet of fencing turned in at a forty-five (45) degree angle.

(B) For species in the Felidae and Ursidae families:

(i) a cage must be constructed of and covered at the top with nine (9) gauge steel chain link or equivalent, with tension bars and metal clamps to prevent the escape of the animal; or

(ii) except for tigers, leopards, and jaguars, in facilities without a top, the sides of the cage must be a minimum of eleven (11) feet high with the top three (3) feet of fencing turned in at a forty-five (45) degree angle. A structure that could provide a potential escape route may not be near the fence of an open top cage.

(C) For elephants, rhinoceroses, and hippopotamuses:

(i) a cage must use construction materials that consist of steel bars, masonry block, or equivalent material. If masonry block construction is used, the holes in the blocks must be filled with steel reinforced concrete to provide sufficient strength; or

(ii) paddocks or corrals must use restraints consisting of a barrier system of moats or other structures that are commonly accepted as suitable to restrain and contain these animals.

(D) For poisonous animals, the following:

(i) A cage must have small enough mesh to prevent the animal's escape or a glass enclosure sufficiently strong to prevent the animal's escape.

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(ii) The cage or glass enclosure must be kept inside an outer cage or glass enclosure, which must be kept locked at all times.

(iii) Only the person who possesses a permit for a prohibited animal or the person's authorized employee may open a cage or other container that contains a poisonous animal.

(iv) Each person keeping a poisonous animal shall have in the person's possession or readily available antivenom appropriate for each species possessed.

(E) For chimpanzees, gorillas, and orangutans, cage construction materials must consist of steel bars, two (2) inch galvanized pipe, reinforced masonry block, or materials of equivalent strength.

(F) For drills, mandrills, baboons, Gelada baboons, gibbons, and siamangs, cage construction materials must consist of not less than nine (9) gauge steel chain link or equivalent materials.

(G) For alligators and crocodiles, cages must consist of fencing at least five (5) feet in height of not less than eleven and one-half (11 1/2) gauge chain link or equivalent materials.

(3) A mobile facility may not transport a prohibited animal unless the following requirements are met:

(A) The facility must be equipped to provide the animal with fresh air without injurious drafts and with adequate protection from the elements.

(B) The animal's traveling area must be free of engine exhaust fumes.

(C) An animal cage must have openings for the emergency removal of the animal.

(D) A cage must be large enough to ensure that each specimen has sufficient room to stand erect and lie naturally.

(E) Animals transported in the same cage area must be in compatible groups.

(F) Each mobile facility used to transport or temporarily exhibit a prohibited animal must:

(i) be constructed of steel or case hardened aluminum of sufficient strength to prevent the escape of the animal being transported;

(ii) be constructed in a manner to prevent contact

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between the animal and the public; and

(iii) have all doors locked when the facility is in use.

(G) Poisonous reptiles must be transported in a strong, closely woven cloth sack that is tied or sufficiently secured and placed in a box. The box must be of a strong solid material, except for small air holes that must be screened. The box containing a poisonous reptile must be locked and prominently labeled "Danger - Poisonous Snakes" or "Danger - Poisonous Reptiles" and include the owner's name, address, telephone number, and a list of the number and species being transported.

(H) An animal in a temporary exhibit must be housed in a cage that meets the minimum cage specifications as provided in subdivision 1 when the animal is present in any geographical location for more than ten (10) days.

(I) Before entering Indiana, a temporary exhibitor must submit a schedule that details the exact locations and dates of shows and places where each animal will be exhibited while in Indiana. The department may deny a permit for failure to comply with this clause.

(d) This SECTION expires July 1, 2009.

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